

ADVISORY OPINION 93-002

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

February 9, 1993

Mr. David J. Wilkerson, CPA
Cotton & Allen, PSC
Certified Public Accounts
First Trust Center
200 S Fifth Street, Suite 201 S
Louisville, Kentucky 40202

Dear Mr. Wilkerson:

Thank you for contacting the Registry. In general, your question asks:

Does KRS 121.330 apply to Jefferson County Judge/Executive David Armstrong and his executive level employees and any potential entity who may receive non-bid contracts from Jefferson County?

The short answer to your question is yes. KRS 446.080(4) states:

All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning of law, shall be construed accordint to such meaning. Id. (Emphasis Added.)

Your lengthy, and well written question appears to ask the Registry to apply an individualized, as oppoesed to a "peculiarand appropriate meaning" to several terms. However, in this case, the Registry will follow the mandate of KRS 446.080(4) when it reads KRS 121.330. By its plain meaing, KRS 121.330 applies to County Judge/Executive Armstrong.

As to your specific request, it can be stated as follows:

If the elected official, referenced by KRS 121.330, and/or memebbers appointed by the elected official comprise 50% or less of the voting members of an independent board (e.g., local air board members, KRS 183.132) does KRS 121.330(1) and (2) restrict an entity [as defined in KRS 121.330(5)] from receiveing a non-bid contract from the independent board, or employees of the organization managed by the independent board, if the owners, employees, and/or spouses of either of the entities contributed in excess of \$5,000 in the aggregate to an election campaign of the elected official which immediately preceded the elected official's current term of office?

The answer is yes. KRS 121.330(1) applies to the elected official or any of his appointees. KRS 121.330(1) can restrict an entity from receiveing a non-bid contract from an "independent board."

[Here, the term "independent board" is an individualized term and not one which has "acquired a peculiar appropriate meaning of law." KRS 446.080(4).] As KRS 121.330(1) states: "No elected official or any of his appointees shall knowingly award any non-bid contract with the governing authority to any entity..." Id. The plain language of the statute dictates that the official or any of his appointees to which your question refers are indeed restricted or could be restricted by KRS 121.330.

Likewise, KRS 121.330(2) restricts any entity from receiving non-bid contracts if any of its officers or employees or spouses of the officers or spouses of the employees have knowingly contributed an aggregate of \$5,000 in any one election to the campaign of the elected official. [KRS 121.330(2).]

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, Please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

TES/dt